



## U.S. Department of Justice

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### **UNITED STATES SETTLES WITH MERCY HEALTH SYSTEM OVER IMPROPER MEDICARE BILLING**

PHILADELPHIA - Mercy Health System of Southeastern Pennsylvania; Mercy Catholic Medical Center, Mercy Fitzgerald Hospital Division; Mercy Catholic Medical Center, Mercy Philadelphia Hospital Division; and Mercy Suburban Hospital have reached a settlement with the United States to resolve claims of improper billing to Medicare, announced United States Attorney Zane David Memeger. Mercy Health System has agreed to pay the United States \$7,920,708.18. The settlement arises from the Mercy hospitals' voluntary disclosure that the hospitals improperly billed Medicare for one day inpatient hospital admissions between October 1, 2001 and September 30, 2007 that should have been coded as observations or outpatient visits, which resulted in a higher reimbursement for the hospitals.

The False Claims Act makes it illegal for any person or entity to present a false or fraudulent claim to the United States for payment and/or to retain overpayments that were improperly received. The Medicare program only reimburses hospitals for services that are "reasonable and necessary," and hospitals such as the Mercy entities are given clear guidance regarding when hospital admission is necessary. The Department of Health and Human Services Office of the Inspector General publishes compliance guidelines that encourage hospitals to have systems in place for ongoing audits through a compliance or a utilization review committee, to have policies regarding appropriate admissions, and to educate physicians and staff to ensure that inpatient claims are reasonable and necessary. Although the Mercy entities had some such procedures in place during the period in question, they did not prevent the improper over billing from occurring and did not immediately identify and return the overpayments.

"Combating Medicare fraud and over billing is an increasingly critical issue," said Memeger. "The Department of Justice and United States Attorney's Offices across the country have made cracking down on fraud and over billing a priority. As Attorney General Holder has said, every year we lose tens of billions of dollars in Medicare and Medicaid funds to fraud and over billing. Those billions represent health care dollars that could be spent on medicine, elder care, or emergency room visits. Fraud and over billing are unacceptable, and we are committed to working with the Department of Health and Human Services to eradicate this misconduct."

The Mercy hospitals brought this case to the government's attention by voluntarily disclosing the improper billing. Memeger complimented the Mercy hospitals on their approach. "When health care providers come forward, forthrightly acknowledge improper conduct, and take steps to prevent that conduct from recurring in the future, everyone benefits," Memeger said. "The Mercy hospitals' decision to disclose the improper billing, to reveal the results of their internal investigation, and to cooperate with our investigation demonstrated that they were serious about providing patients with appropriate medical care and about compliance with the law. Acceptance of responsibility and prompt efforts at reform are critical factors in our decision whether to pursue health care providers in litigation or whether to reach an amicable resolution."

In light of the Mercy hospitals' voluntary disclosure and self-audit, and upon the evaluation of the Mercy hospitals' compliance structure by the Office of the Inspector General of the Department of Health and Human Services, Mercy will continue to implement its corporate compliance program without the need for a Corporate Integrity Agreement overseen by the Office of the Inspector General.

The case was investigated by Bernard Siegel of the Department of Health and Human Services Office of the Inspector General, Assistant United States Attorney Paul Kaufman, Senior Counsel for Health Care Fraud and Elder Justice Andy Mao of the United States Department of Justice, and Denis Cooke of the United States Attorney's Office.

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